

**STATE OF NEW MEXICO
ENERGY, MEINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

**SECOND AMENDED APPLICATION OF FLAT CREEK RESOURCES, LLC,
WITH STATELINE OPERATING, LLC, FOR A HORIZONTAL SPACING UNIT
AND COMPULSORY POOLING - CONFIRMING UNIT AS NON-STANDARD AND
ADDRESSING OVERLAPPING SPACING UNITS - EDDY COUNTY, NEW MEXICO**

Case No. _____
(curing application in Case No. 21560)

**SECOND AMENDED APPLICATION CONFIRMING THE UNIT AS
NON-STANDARD AND ADDRESSING OVERLAPPING SPACING UNITS**

Flat Creek Resources, LLC, OGRID No. 374034, along with Stateline Operating, LLC, (collectively referred to herein as “Flat Creek” or “Applicant”) through its undersigned attorneys, hereby files this Second Amended Application Confirming the Unit as Non-standard and Addressing Overlapping Spacing Units (“Second Amended Application”) with the Oil Conservation Division (“Division”) pursuant to the provisions of NMSA 1978, Section 70-2-17, seeking an order (1) establishing a 480-acre, more or less, non-standard horizontal spacing and proration unit comprised of the N/2 and N/2 S/2 of Section 23, Township 23 South, Range 27 East, NMPM, Eddy County, New Mexico, and (2) pooling all uncommitted mineral interests in the Wolfcamp formation, designated by the Division as a gas field, underlying said unit.

In support of its Second Amended Application, Flat Creek states the following:

1. Flat Creek is submitting this Second Amended Application to the extent the New Mexico Oil Conservation Commission (“Commission”) might find it necessary to move forward with the hearing *de novo* so that the substance and merits of the original case can be reconsidered by the Commission. While Flat Creek’s original application in Case No. 21560 accurately

described the size and location of its proposed 480-acre spacing unit,¹ the original Application incorrectly labelled the spacing unit as standard; it should have been described as non-standard. As a non-standard unit, Flat Creek should have provided the notice required by NMAC 19.15.4.9A(7) for non-standard spacing units.

2. This Second Amended Application correctly labels Flat Creek's proposed 480-acre spacing unit as non-standard. In addition, Flat Creek is providing notice of the filing of this non-standard unit as required by NMAC 19.15.4.9A(7) and will be seeking from the Division administrative approval of the non-standard unit. Also, in the hearing *de novo*, Flat Creek will be seeking approval of an overlapping well spacing unit to account for the existing wells and will be providing notice to the operator and working interest owners of said wells, pursuant to NMAC 19.15.16.15B(9)(b). Wells in Section 23 that would or may be affected by the subsequent wells proposed herein are the Norris Thornton Com RB #204H Well (API No. 30-015-44659), a horizontal well in the S/2; the Colonel R. Howard Com #002 well (API No. 30-015-42272), a vertical well on a 40-acre spacing unit located in the SW/4 NW/4 (Unit E); and potentially the Norris-Thornton Com #1 Well (API No. 30-015-41920), also a vertical well.²

¹ The unit covering the N/2 and N/2 S/2 of Section 23 had a 320-acre standard base with an additional 160-acres added to create a unit in rectangular form, the form required for a standard unit. Addition of 160-acres is allowed, but to maintain standard form the 160-acres must conform with the addition of a whole quarter section. The 160-acres added in this case were two half quarter sections to create the rectangular form.

² Matador's C-102 for the Norris-Thornton Com #1 well, received by the OCD, Artesia District, on October 21, 2019, shows the unit and dedicated acreage for this well as comprising only Unit P (SE/4 SE/4), in which case this well would not be an existing well in Flat Creek's proposed HSU; however, an earlier C-102, filed by Matador and received November 16, 2017, dedicates to this well 321.72 acres encompassed by the S/2 of Section 23. Flat Creek is assuming that earlier C-102 covering the S/2 has been supplanted by the latter C-102 describing the 40-acre unit.

3. The issue of overlapping units was addressed at length in the original hearing and has therefore become part of the underlying matter to be considered in the hearing *de novo* in OCC Case No. 22233, pursuant to NMSA 1978 Section 70-2-13.

4. This Second Amended Application is materially and substantively the same as the original Application in Case No. 21560, as evidenced by how the Division handled the defects in the original Application. The Division heard Flat Creek's original application in Case No. 21560 on May 6, 2021. During the hearing, the Division and the parties fully addressed the defects in the original Application, and the Division allowed the case to move forward and be heard based on the content and merits of the application, with Matador's consent. By Order No. R-21800, issued August 26, 2021, the Division denied Flat Creek's application and granted the competing applications filed by Matador in Case Nos. 21543 and 21630. While the Order noted that Flat Creek mislabeled the 480-acre spacing unit as standard,³ the Order did not find that defect to be dispositive; in fact, the Order did not take any defects, or potential defects, in the original Application into consideration when comparing the relative merits of the competing applications. *Id.* at Paragraphs 1-22. In other words, the Division viewed the defect as immaterial to the merits of the case.⁴ Flat Creek respectfully submits that any defects, or potential defects, have either been fully addressed or waived through Matador's consent to the original hearing.

³ See Order No. R-21800, p. 2, FN 1.

⁴ In its Closing Brief, Section C, Paragraph 30, filed May 24, 2021, in Case No. 21560, Flat Creek describes the manner in which notice was likely satisfied under 19.15.16.15B(9)(b) and 19.15.15.12B for the overlapping units by having given notice to Matador, the only operator and WI owner in the Wolfcamp formation of Section 23. Flat Creek also showed how notice was likely satisfied for the mislabeling of its unit as standard. *See id.*, p. 10, paragraph 28. That fact that Matador consented to going forward on the merits of the applications at the original hearing regardless of any irregularities should serve as a waiver by Matador that any irregularities of which Matador was aware (and Matador represented by counsel was fully aware of all irregularities) have been cured or are no longer relevant to the hearing *de novo*; assuming, *arguendo*, that they are still relevant, the Division stated that if it dismisses Case No. 21560, "it will undoubtedly be with the option to refile in some form or another" and would not end this portion of the case. *See* Case No. 21560 Tr. 27:6-12. In reliance on this provision, Flat

5. Flat Creek, as the collective Applicant, is a working interest owner in the proposed horizontal spacing and proration unit (“HSU”) and has a right to drill a well thereon, pursuant to the terms of ownership, right to drill, and appropriation of production in NMSA 1978 Section 70-2-33(E).

6. Flat Creek seeks to dedicate the HSU to three initial wells, the **Thirteen Seconds 23 Fed-Fee 701H Well**, **Thirteen Seconds 23 Fed-Fee 702H Well**, and the **Thirteen Seconds 23 Fed-Fee 703H Well** and proposes to drill the wells to a depth sufficient to test the Wolfcamp formation.

7. Flat Creek proposes the **Thirteen Seconds 23 Fed-Fee 701H Well**, to be horizontally drilled from a surface location in the NW/4 NW/4 (Unit D) of Section 23 to a bottom hole location in the NE/4 NE/4 (Unit A) of Section 23.

8. Flat Creek proposes the **Thirteen Seconds 23 Fed-Fee 702H Well**, to be horizontally drilled from a surface location in the NW/4 NW/4 (Unit D) of Section 23 to a bottom hole location in the SE/4 NE/4 (Unit H) of Section 23.

9. Flat Creek proposes the **Thirteen Seconds 23 Fed-Fee 703H Well**, to be horizontally drilled from a surface location in the NW/4 SW/4 (Unit L) of Section 23 to a bottom hole location in the NE/4 SE/4 (Unit I) of Section 23.

10. The completed intervals for the proposed wells will be non-standard in relation to the setback requirements imposed by the Special Rules for the Purple Sage Gas Pool, as provided in Order No. R-14262, and Flat Creek will be applying administratively for approval of the non-standard location.

Creek is submitting this Amended Application as a precaution to address, and cure to the extent necessary, any irregularities in the original application that might remain.

11. Flat Creek has sought in good faith, but has been unable to obtain, voluntary agreement from all interest owners to participate in the drilling of the wells or in the commitment of their interests to the wells for their development within the proposed HSU.

12. The pooling of all interests in the Wolfcamp formation within the proposed HSU will avoid the drilling of unnecessary wells, prevent waste and protect correlative rights.

13. Flat Creek reserves the right to add additional wells to the HSU if deemed necessary by Flat Creek for the proper development of the HSU and its resources, in accordance with the state-wide rules.

14. This application competes against the application of Matador Production Company in Case Nos. 21543 and 21630.

15. If the BLM, pursuant to Flat Creek's Notice Letter re Federal Lease NMNM 139351 dated October 15, 2021, should determine that the proposed 480-acre unit comprised of the N/2 and N/2 S/2 of Section 23 is the only available unit for optimal production under the federal regulations, Flat Creek requests that the Division or Commission re-organize the S/2 of Section 23, based on BLM's request, and re-dedicate the Norris Thornton Com RB #204H Well to the S/2 S/2 of Section 23, adjacent to Flat Creek's proposed unit in the N/2 and N/2 S/2 of Section 23, pursuant to allowance for re-dedication in NMAC 19.15.16.15B(9)(a).

WHEREFORE, Flat Creek requests that this Second Amended Application be set for hearing before an Examiner of the Oil Conservation Division on December 2, 2021, and after notice and hearing as required by law, the Division enter an order containing the provisions (A-H) below. In the alternative, since this Second Amended Application has been initiated for incorporation in Flat Creek's application for a hearing *de novo* filed September 23, 2021, to the extent the Division deems it appropriate, Flat Creek requests that the Division remove this Second

Amended Application to the Commission, to be considered as curative to the application in Case No. 21560, if needed, and be heard in the *de novo* proceedings, during which Flat Creek would request the Commission to enter an order:

A. Approving the creation of a 480-acre, more or less, spacing and proration unit comprising the N/2 and N/2 S/2 of Section 23, Township 23 South, Range 27 East, NMPM, Eddy County, New Mexico, and approving the wells thereon;

B. Pooling all uncommitted mineral interests in the Wolfcamp formation underlying the proposed HSU;

C. Designating Flat Creek as operator of this HSU and the horizontal wells to be drilled thereon;

D. Authorizing Flat Creek to recover its costs of drilling, equipping and completing the wells;

E. Approving actual operating charges and costs of supervision, while drilling and after completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures;

F. Setting a 200% charge for the risk assumed by Flat Creek in drilling and completing the wells in the event a working interest owner elects not to participate in the wells;

G. Approving the overlapping units, or in the alternative, to the extent deemed necessary, provide for the reorganization and re-dedication of the S/2 of Section 23; and

H. Acknowledging the curative effect of the Second Amended Application, to the extent, if any, such acknowledgement might be needed, pursuant to the Division's "Notice: Material Changes or Deficiencies in Applications Submitted to the OCD Engineering Bureau," dated effective June 11, 2020.

Respectfully submitted,

ABADIE & SCHILL, PC

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Second Amended Application of Flat Creek Resources, LLC, with Stateline Operating, LLC ("Flat Creek") for a Horizontal Spacing and Proration Unit and Compulsory Pooling, Confirming the Unit as Non-standard and Addressing Overlapping Spacing Units, Eddy County, New Mexico. Applicant (Flat Creek Resources, with Stateline Operating, LLC, collectively, "Flat Creek") in the above-styled cause seeks an order from the Division: (1) establishing a 480-acre, more or less, non-standard horizontal spacing and proration unit comprised of the N/2 and N/2 S/2 of Section 23, Township 23 South, Range 27 East, NMPM, Eddy County, New Mexico and (2) pooling all mineral interests in the Wolfcamp formation, a gas field, underlying the unit. Said horizontal spacing unit is to be dedicated to 3 wells. Flat Creek proposes the **Thirteen Seconds 23 Fed-Fee 701H Well**, to be horizontally drilled from a surface location in the NW/4 NW/4 (Unit D) of Section 23 to a bottom hole location in the NE/4 NE/4 (Unit A) of Section 23; the **Thirteen Seconds 23 Fed-Fee 702H Well**, to be horizontally drilled from a surface location in the NW/4 NW/4 (Unit D) of Section 23 to a bottom hole location in the SE/4 NE/4 (Unit H) of Section 23; and the **Thirteen Seconds 23 Fed-Fee 703H Well**, to be horizontally drilled from a surface location in the NW/4 SW/4 (Unit L) of Section 23 to a bottom hole location in the NE/4 SE/4 (Unit I) of Section 23. The completed intervals for the proposed wells will be non-standard in relation to the setback requirements imposed by the Special Rules for the Purple Sage Gas Pool, Order No. R-14262. Flat Creek will apply administratively for approval of the non-standard location, as well as apply administratively for approval of a non-standard proration and spacing unit. Also to be considered will be approval of an overlapping well spacing unit for the S/2 of Section 23 to account for the existing Norris Thornton Com RB #204H well (API No. 30-015-44659), and accounting for the existing Colonel R. Howard Com #002 well (API No. 30-015-42272), located in the SW/4 NW/4 (Unit E), and, to the extent necessary, the Norris-Thornton Com #1 Well, in the SE/4 SE/4 (Unit P), pursuant to NMAC 19.15.16.15B(9)(b); the cost of drilling and completing the wells and the allocation of the costs thereof; actual operating costs and charges for supervision; the designation of the Applicant as Operator of the wells; and a 200% charge for the risk involved in drilling and completing the wells. The wells and lands are located approximately 3 miles west of Loving, New Mexico.